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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,611	10/03/2001	Dwight Poplin	MICR-112US	2702

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EXAMINER
JERABEK, KELLY L

ART UNIT	PAPER NUMBER
2622	

MAIL DATE	DELIVERY MODE
04/03/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/970,611	POPLIN, DWIGHT
	Examiner	Art Unit	
	KELLY L. JERABEK	2622	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>13 December 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1,3,6-8,10,12,14-16,18-21 and 24-26</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1,3,6-8,10,12,14-16,18-21 and 24-26</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>03 October 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 08-06)   **Office Action Summary**   Part of Paper No./Mail Date 20080311

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1, 3-8, 10, 12-16, 18-21 and 24-26

have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 3, 6-8, 10, 12, 14-16, 18-21 and 24-26 are rejected under 35 U.S.C.

103(a) as being unpatentable over Shinsky et al. US 6,285,398 in view of Miller

et al. US 2005/0185055 and further in view of Norita et al. US 6,285,398.

Re claim 18, Shinsky discloses in figure 3 a system including a video camera

capable of transmitting raw video data to a host computer where it is processed and

converted for display (col. 4, lines 6-27). The system provides a method of adjusting

image-capturing parameters of an image-capturing device (100) comprising: capturing a scene of interest as raw image data using an image sensor (12) of the image-capturing device (100) (col. 4, lines 30-53); processing the raw image data using first settings of the image capturing parameters (contrast, brightness, hue, gain, etc.) to produce a first image of the scene of interest; processing the raw image data using second settings of the image capturing parameters (contrast, brightness, hue, gain, etc.) to produce a second image of the scene of interest (col. 5, line 31- col. 8, line 35; col. 9, line 40 – col. 10, line 65) (The host computer (200) processes the raw image data in order to continually adjust the gain and appropriately adjust the control signals according to input of a user via a graphical user interface, thus multiple images are produced according to the updated image capturing parameters); and adjusting current settings of the image capturing parameters of the image capturing device (100) to conform with one of the first and second images, the adjusted current settings of the image capturing parameters being used by the image capturing device (100) to capture a subsequent image (generated shutter and AGC control signals are provided to the camera (100) in accordance with exposure algorithm (col. 8, lines 1-15, 55-67)). Although the Shinsky reference discloses all of the above limitations including a graphical user interface allowing a user view images and to provide control inputs to adjust current settings (gain value, contrast, brightness, hue, etc.) of a picture, the reference fails to distinctly state that first and second images have different image capturing parameters are displayed for user selection, selecting, by a user one of the first and second images; repeating the processing steps and displaying step using a first setting and a second setting of a

second selected image-capturing parameter to produce third and fourth images of the

scene of interest; and selecting, by the user, one of the third and fourth images.

Miller discloses a customizable camera capable of being customized according

to the preferred settings of a user. Miller discloses that the camera processor (18)

displays a group of images on a display (22) either simultaneously or sequentially and

allows a user to select an image having the appearance that they prefer from among the

group of images. Miller further states that the process is repeated using additional sets

of images to verify the settings and the current settings of the image-capturing

parameters of the camera are adjusted to conform to the selected settings of the

selected images (pages 5-6; paragraphs 57-58; figures 3A,3B). Therefore, it would

have been obvious for one skilled in the art to have been motivated to include the

concept of adjusting the current settings of image capturing parameters of a camera

according to multiple displayed images that are selectable by a user as disclosed by

Miller in the method of processing raw image data by setting image capturing

parameters using a graphical user interface as disclosed by Shinsky. Doing so would

provide a means for allowing a user to adjust the settings of a camera by selecting an

image having a preferred appearance from among a group of images having various

degrees of settings. However, although the combination of the Shinsky and Miller

references disclose all of the above limitations and Shinsky specifically discloses an

automatic exposure algorithm, neither reference specifically states that current settings

of the image capturing parameters of and image capturing device may be adjusted to

conform with the settings of a selected image wherein at least one of the adjusted image capturing parameters is a control parameter for setting an exposure period.

Norita discloses a digital camera capable of capturing images at different exposure times. Norita discloses a manual exposure photography setting of the camera wherein a plurality of images captured at different exposure times may be displayed (figure 19) and a user may select an image with desired exposure in order to adopt the exposure setting of that image (col. 13, line 63-col. 14, line 17). Therefore, it would have been obvious for one skilled in the art to have been motivated to include the concept of adjusting the current exposure time settings of a camera according to multiple displayed images that are selectable by a user as disclosed by Norita in the method of processing raw image data by setting image capturing parameters using a graphical user interface as disclosed by the combination of the Shinsky and Miller references. Doing so would provide a means for allowing a user to adjust the exposure settings of a camera by selecting an image having a preferred appearance from among a group of images having various degrees of settings.

Re claim 19, Shinski states that the image capturing parameters adjusted by the host computer (200) include contrast, brightness, hue, gamma correction, and white balance (col. 6, lines 17-35; col. 7, lines 57-60; col. 9, lines 44-48).

Re claims 20-21, Miller states that the step of displaying first and second images includes simultaneously or sequentially displaying the images (page 5, paragraph 57).

Furthermore, Norita also states that the step of displaying comparison images includes simultaneously (fig. 19) or sequentially (fig. 10) displaying the images (col. 13, line 63- col. 14, line 17).

        Re claims 1 and 10, Shinsky discloses in figure 3 a system including a video camera capable of capturing image data and transmitting raw video data to a host computer (200) where it is processed and converted for display (col. 4, lines 6-27). The system provides a method of adjusting image-capturing parameters of an image- capturing device (100) comprising: a first image and a second image using different settings of image capturing parameters including: processing, by the external computer (200) raw image data using first settings of the image capturing parameters (contrast, brightness, hue, gain, etc.) to produce a first image of the scene of interest; processing, by the external computer (200) the raw image data using second settings of the image capturing parameters (contrast, brightness, hue, gain, etc.) to produce a second image of the scene of interest (col. 4, lines 30-53;col. 5, line 31- col. 8, line 35; col. 9, line 40 – col. 10, line 65) (The host computer (200) processes the raw image data in order to continually adjust the gain and appropriately adjust the control signals according to input of a user via a graphical user interface, thus multiple images are produced according to the updated image capturing parameters); and adjusting current settings of the image capturing parameters of the image capturing device (100) to conform with one of the first and second images, the adjusted current settings of the image capturing parameters being used by the image capturing device (100) to capture a subsequent

image (generated shutter and AGC control signals which conform to the user input via the graphical user interface are provided to the camera (100) (col. 8, lines 1-15, 55-67)). Although the Shinsky reference discloses all of the above limitations including a graphical user interface allowing a user view images and to provide control inputs to adjust current settings (gain value, contrast, brightness, hue, etc.) of a picture, the reference fails to distinctly state that first and second images having different image capturing parameters are displayed as comparison images for user selection, selecting, by a user, one of the comparison images; processing the raw image data using a third setting of the selected image-capturing parameter for display of a third image; displaying the selected one of the first and second images and the third image as further comparison images and selecting, by the user, one of the further comparison images for adjusting the settings of the image capturing parameters.

Miller discloses a customizable camera capable of being customized according to the preferred settings of a user. Miller discloses that the camera processor (18) displays a group of images on a display (22) either simultaneously or sequentially and allows a user to select an image having the appearance that they prefer from among the group of images. Miller further states that the process is repeated using additional sets of images to verify the settings and the current settings of the image-capturing parameters of the camera are adjusted to conform to the selected settings of the selected images (pages 5-6; paragraphs 57-58; figures 3A,3B). Therefore, it would have been obvious for one skilled in the art to have been motivated to include the concept of adjusting the currents settings of image capturing parameters of a camera

according to multiple displayed images that are selectable by a user as disclosed by
Miller in the method of processing raw image data by setting image capturing
parameters using a graphical user interface as disclosed by Shinsky. Doing so would
provide a means for allowing a user to adjust the settings of a camera by selecting an
image having a preferred appearance from among a group of images having various
degrees of settings. However, although the combination of the Shinsky and Miller
references disclose all of the above limitations and Shinsky specifically discloses an
automatic exposure algorithm, neither reference specifically states that current settings
of the image capturing parameters of and image capturing device may be adjusted to
conform with the settings of a selected image wherein at least one of the adjusted
image capturing parameters is a control parameter for setting an exposure period.

     Norita discloses a digital camera capable of capturing images at different
exposure times. Norita discloses a manual exposure photography setting of the camera
wherein a plurality of images captured at different exposure times may be displayed
(figure 19) and a user may select an image with desired exposure in order to adopt the
exposure setting of that image (col. 13, line 63-col. 14, line 17). Therefore, it would
have been obvious for one skilled in the art to have been motivated to include the
concept of adjusting the current exposure time settings of a camera according to
multiple displayed images that are selectable by a user as disclosed by Norita in the
method of processing raw image data by setting image capturing parameters using a
graphical user interface as disclosed by the combination of the Shinsky and Miller
references. Doing so would provide a means for allowing a user to adjust the exposure

settings of a camera by selecting an image having a preferred appearance from among a group of images having various degrees of settings.

Re claims 3 and 12, Miller states that the step of displaying first and second images includes sequentially displaying a scene of interest using different settings of a selected image capturing parameter (eg. various degrees of contrast settings) (pages 5-6, paragraphs 57-58). Furthermore, Norita also states that the step of displaying comparison images includes simultaneously (fig. 19) or sequentially (fig. 10) displaying the images using different exposure time settings (col. 13, line 63-col. 14, line 17).

Re claims 6-7 and 15-16, Miller states that the step of displaying first and second images includes simultaneously or sequentially displaying the images (page 5, paragraph 57). Furthermore, Norita also states that the step of displaying comparison images includes simultaneously (fig. 19) or sequentially (fig. 10) displaying the images using different exposure time settings (col. 13, line 63-col. 14, line 17).

Re claim 8, Shinsky states that raw image data of a subsequent image is captured using the current settings (calculated shutter, AGC, and gain adjustment values) of the image capturing parameters to produce the other image (col. 8, line 57 – co. 9, line 37).

Re claim 14, Shinsky states that the image capturing parameters adjusted by the
host computer (200) include contrast, brightness, hue, gamma correction, exposure
period, and white balance (col. 6, lines 17-35; col. 7, lines 57-60; col. 8, lines 1-15; col.
9, lines 44-48).

Re claims 24-26, Shinsky states that the graphical user interface provides a
viewing window which allows a user to view the current video images (raw image data)
sent from the camera and while viewing these video images, the user can provide
control inputs to adjust the contrast, brightness, hue and white balance of the picture in
order to optimize the picture for the current environment (col. 9, lines 40-56). Thus, it
can be seen that Shinsky discloses that processing the raw image data (current video
images sent from the camera) using the second setting of the selected image-capturing
parameter (the user selected parameters, eg. contrast, brightness, hue and
whitebalance) includes generating a simulated image (a new updated image is
produced each time the user adjusts a parameter) that represents an image captured
using the second setting (whatever parameter setting the user chooses second in the
sequence) of the selected image-capturing parameter to produce a second image.

Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly L. Jerabek whose telephone number is **(571) 272-7312**. The examiner can normally be reached on Monday - Friday (8:00 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye can be reached at **(571) 272-7372**. The fax phone number for submitting all Official communications is **(571) 273-7300**. The fax phone number for submitting informal communications such as drafts, proposed amendments, etc., may be faxed directly to the Examiner at (571) 273-7312.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Kelly L. Jerabek/

Examiner, Art Unit 2622

/James M Hannett/

Primary Examiner, Art Unit 2622